



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/756,916

01/13/2004

Maurice Eduardus Theodorus van Esbroeck

V0028/296361

5156

23370

7590

08/16/2005

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/756,916

Applicant(s)

VAN ESBROECK ET AL.

Examiner

David J. Parsley

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

p1

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 5-16-05 and this action is non-final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8-15, 17-27, 30, 35-36, 39-45 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,012,808 to Strong.

Referring to claim 1, Strong discloses a device for treating meat products comprising, at least one treatment section – at 10,14, having a space for accommodating the products – see for example figures 1-2, and a discharge device – at 30,32 and/or 40,42,44, for discharging the products from the space of the treatment section – see for example figures 1 and 3, wherein the discharge device can assume a discharging position – see figure 3, for discharging products from the space for accommodation – see figure 3, and an inactive state – see figure 3, wherein in the

discharging position the discharge device is located at least partially within the space that accommodates the products – see for example 40,44, in figure 3:

Referring to claim 2, Strong discloses the discharge device is moved between the discharging position and the inactive state with an actuating device – at 16-22 as seen in figure 1.

Referring to claim 3, Strong discloses each treatment section is provided with its own actuating device – see at 16-22 in figure 1, since parent claim 1 states that there can be only one treatment section than the claim limitation of each treatment section can mean only one treatment section.

Referring to claim 4, Strong discloses the actuating device – at 16-22, is common to a plurality of treatment sections – at 10,14,30,32, - see for example figure 1.

Referring to claim 5, Strong discloses the actuating device comprises a rod – at 16, which can be actuated from outside the device – see at 18-22 in figure 1.

Referring to claim 8, Strong discloses the actuating device – at 16-22, generates a control signal after the discharge device of the treatment section has been moved into the discharge position – as seen in figure 3 – see for example figure 1 and column 3 lines 5-15, where control signals are sent to the motor – at 20, when the device is in operation including when the treatment section is in the discharge position.

Referring to claim 9, Strong discloses the at least one treatment section – at 10,14,30,32, comprises at least a first treatment section – at 10,14,30,32, and a section treatment section – at any other of 10,14,30,32 as seen in figure 1, through which the products pass in succession – see for example figure 1, and wherein the actuating device – at 16-22, is designed to move the discharge device – at 30,32, and/or 40,42,44, of the second treatment into its discharging position

Art Unit: 3643

before moving the discharge device of the first treatment section – at 30,32, and/or 40,42,44, into its discharge position – see for example figure 1.

Referring to claim 10, Strong discloses the at least one treatment section – at 10,14,30,32, comprises at least a first treatment section – at 10,14,30,32, and a section treatment section – at any other of 10,14,30,32 as seen in figure 1, through which the products pass in succession – see for example figure 1, and wherein the actuating device – at 16-22, is designed to move the discharge device – at 30,32, and/or 40,42,44, of the first and second treatment sections into their discharging position at substantially the same time – see for example figures 1-3, where at least one of the items 30,32 and 40,42, are at least in position to discharge the meat product.

Referring to claim 11, Strong discloses the treatment device comprises at least one massaging element – at any one of 40,42, and the discharge device – at 44, interact with the at least one massaging element to assume the discharging position – see for example figures 1 and 3.

Referring to claim 12, Strong discloses the treatment device is designed to move with the aid of a drive – at 16-22 – see for example figure 1.

Referring to claim 13, Strong discloses the at least one treatment section – at 10,14, comprises a plurality of treatment sections – at 10,14 – see figure 1, and wherein the movement of the treatment devices of at least two of the plurality of treatment sections differs – see for example figure 1 and column 3 lines 5-15 where the speed of the drive motor – at 20 is variable and thus move the treatment sections differently giving the different speeds of the drive motor.

Referring to claim 14, Strong discloses the treatment device – at 10,14, is designed to be rotated – see for example at items 16-22 in figure 1.

Referring to claim 15, Strong discloses the at least one treatment section – at 10,14, comprises a plurality of treatment sections – at 10,14 – see figure 1, and wherein the treatment devices of at least two of the plurality of treatment sections having a common bearing – see at 16 and the shaft through the center of item 18 in figure 1.

Referring to claim 17, Strong discloses the treatment devices – at 10,14, of at least two of the plurality of treatment sections are mounted on the same shaft – at 16 – see figure 1.

Referring to claim 18, Strong discloses the treatment device rotates in a rotational direction about a substantially horizontal axis – see at 16 in figure 1.

Referring to claim 19, Strong discloses the treatment device comprises at least one surface – at 10,14,20,32,40,42, oriented at an angle to the rotational direction of the treatment device – see for example figures 1-3.

Referring to claim 20, Strong discloses the treatment device comprises a plurality of surfaces – at 10,14 and 30,32 or 40,42, oriented at an angle to each other to form at least one point – see for example figures 1-3.

Referring to claim 21, Strong discloses the vertex angle of the at least one point is at least approximately 45 degrees – see for example figures 1-3 and column 3 lines 33-68.

Referring to claim 22, Strong discloses wherein the plurality of surfaces form a plurality of points – see at 10,14,30,32,40,42 in figures 2-3, separated in the treatment section a distance from one another – see for example figures 2-3.

Referring to claim 23, Strong discloses the treatment device is asymmetrically-shaped – see at 10,14, in figures 1-3.

Art Unit: 3643

Referring to claim 24, Strong discloses the plurality of surfaces form a plurality of points – see for example figures 2-3, and wherein at least some of the points have differing dimensions – see for example at 30,32 and 40,42 in figures 2-3 and column 3 lines 33-68.

Referring to claim 25, Strong discloses the surfaces are integral with a wall of the treatment section – see for example – at 10 and 30,32 or 40,42 in figures 1-3.

Referring to claim 26, Strong discloses the at least one surface is movable along a stationary wall – at 10 or 13, of the treatment section – see for example figure 1.

Referring to claim 27, Strong discloses an edge of the at least one surface, that is proximal the wall – at 10 or 13, is situated at a distance from the wall – see for example figures 1-3.

Referring to claim 30, Strong discloses the treatment device comprises a feed device – at the first of items 12, for supplying a substance for treating products, wherein the feed device is arranged to at least partially in the space of the treatment section – see for example figures 1-3.

Referring to claim 35, Strong discloses the treatment section comprises a rotatable drum – at 10,12,14, which defines the space – see figures 1-3, wherein the drum has an axis of rotation and a direction of rotation – see at 16-22 in figure 1.

Referring to claim 36, Strong discloses the treatment device comprises at least one blade – at 30,32, arranged in the space, wherein the at least one blade operates to cut products in the space in the direction of rotation – see for examples figures 1-2. Strong does not disclose the blade operates to cut products. However, it is deemed that the device – at items 30,32 of Strong are capable of cutting the meat product as seen in figure 2, where the items – at 30,32, has a free

Art Unit: 3643

edge which when moving into contact with a meat product can at least partially penetrate the meat product.

Referring to claim 39, Strong discloses the discharge device – at 40,42,44, comprises a product-guiding part – at 44, of which is located outside the treatment section – see for example figure 3.

Referring to claim 40, Strong discloses the product-guiding part is in the form of a gutter – see at 44 in figure 3.

Referring to claim 41, Strong discloses the discharge device is capable when in its discharging position of discharging both the products and a substance – at M, for treating products from the space – see for example figure 3.

Referring to claim 42, Strong discloses the discharge device is capable when in its discharging position – see figure 3, of discharging the products from the space – see figure 3, and returning a substance – at M, for treating products to the space – see for example figure 3.

Referring to claim 43, Strong discloses the discharge device – at 10,14,40,42,44, is provided with perforations – see between 10,14 and 40,42 in figures 1 and 3.

Referring to claim 44, Strong discloses the discharge device is capable when in its discharging position of discharging products – at C, from the space but not discharging a substance – at M, for treating products located in space – see at 10,14,30,32,40,42 in figures 1-3.

Referring to claim 45, Strong discloses at least a part of a surface of the space of each treatment section – at 10,14,30,32,40,42, is provide with a profile – see for example figures 1-3.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strong as applied to claims 2 or 15 above, and further in view of U.S. Patent No. 4,791,705 to Corominas.

Referring to claim 6, Strong does not disclose the actuating device comprises a piston-cylinder unit. Corominas does disclose the actuating device – at 16, is a piston-cylinder unit. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Strong and add the actuating device being a piston-cylinder unit of Corominas, so as to allow for the device to be automatically movable.

Referring to claim 7, Strong does not disclose the actuating device comprises a cam track mechanism. Corominas does disclose the actuating device comprises a cam track mechanism – see at 12, 20 in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Strong and add the actuating device comprising a cam track mechanism of Corominas, so as to allow for the device to be moved into different positions/orientations.

Referring to claim 16, Strong does not disclose the bearing comprises a ring having a circumference along which at least one wheel moves. Corominas does disclose the bearing comprises a ring – at 20, having a circumference along which at least one wheel – at 12, moves –

Art Unit: 3643

see for example figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Strong and add the bearing of Corominas, so as to allow for the device to be easily movable into different orientations.

Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strong as applied to claim 26 above, and further in view of U.S. Patent No. 4,836,099 to Thirode.

Referring to claim 28, Strong does not disclose the at least one surface rotates about an axis of rotation and is pivotable about a hinge having a hinge axis, wherein the hinge axis is substantially parallel to the axis of rotation. Thirode does disclose the at least one surface rotates about an axis of rotation – see at 9, and is pivotable about a hinge – at 10-16, having a hinge axis, wherein the hinge axis is substantially parallel to the axis of rotation – see at 9 and where 16 meets 12 in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Strong and add the hinge of Thirode, so as to allow for the device to be movable into differing positions during use.

Referring to claim 29, Strong as modified by Thirode further discloses at least one spring member – at 16, is provided for biasing the at least one surface to a predetermined hinge position – see for example figures 1-2 of Thirode.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strong as applied to claim 1 above, and further in view of U.S. Patent No. 5,284,085 to Palm. Strong does not disclose at least one wall defining the space for accommodating the products, wherein the wall comprises perforations and a chamber positioned outside the space and adjacent to the wall wherein a treatment medium is supplied from the chamber into the space or discharged from the space into the chamber via the perforations. Palm does disclose at least one wall – at 9, defining

Art Unit: 3643

the space for accommodating the products – see between 8-9 and 1, wherein the wall comprises perforations – at 10. and a chamber – at the interior of 1, positioned outside the space and adjacent to the wall wherein a treatment medium – at 6, is supplied from the chamber into the space or discharged from the space into the chamber via the perforations – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Strong and add the wall with perforations of Palm, so as to allow a liquid to be introduced into the device for treating the meat product.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strong as applied to claim 1 above, and further in view of U.S. Patent No. 4,446,779 to Hubbard et al. Strong does not disclose a device for the transfer of heat via a peripheral wall of the space of the treatment section. Hubbard et al. does disclose a device for the transfer of heat – at 27, via a peripheral wall of the space of the treatment section – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Strong and add the heat transfer device of Hubbard et al., so as to allow for the environment inside the device to be controlled.

Claims 33-34, 37-38 and 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strong as applied to claim 1 above, and further in view of U.S. Patent No. 4,214,518 to Petsche.

Referring to claim 33, Strong does not disclose needles projecting into the space of the treatment section. Petsche does disclose needles – at 114, 116, projecting into the space of the treatment section – see for example figure 3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Strong and add the needles of Petsche, so as to allow for the food product to be properly conditioned during use.

Referring to claim 34, Strong as modified by Petsche further discloses the needles can be moved in a controllable manner in their longitudinal direction – see for example figure 3 of Petsche.

Referring to claim 37, Strong does not disclose the treatment device comprises a rotatable roller which is arranged in the space and the axis of rotation of the roller is parallel to the axis of rotation of the drum, which roller acts to massage deformable products. Petsche does disclose the treatment device comprises a rotatable roller – at 116 which is arranged in the space and the axis of rotation of the roller is parallel to the axis of rotation of the drum – at 8,12, which roller acts to massage deformable products – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Strong and add the rotatable roller of Petsche, so as to allow for the food product inside the device to be conditioned during use.

Referring to claim 38, Strong as modified by Petsche further discloses the roller is provided with grooves on its outer surface – see for example figure 9 of Petsche.

Referring to claim 46, Strong does not disclose different treatment sections are formed in a common space, provision being made for a removable treatment device and removable partitions between the different treatment sections. Petsche does disclose different treatment sections are formed in a common space, provision being made for a removable treatment device – at 114, 116, and removable partitions – see proximate 128, 134 in figure 9, between the different treatment sections. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Strong and add the removable treatment device of Petsche, so as to facilitate maintenance and cleaning of the device.

Referring to claim 47, Strong does not disclose the at least one treatment device has a wall which is at least partly removable. Petsche discloses the at least one treatment device – at 114, 116 of Petsche, has a wall which is at least partly removable – see for example proximate 128 and 134 of figure 9. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Strong and add the removable treatment device of Petsche, so as to facilitate maintenance and cleaning of the device.

Response to Arguments

4. Applicant's arguments with respect to claims 1-47 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DP

David Parsley
Patent Examiner
Art Unit 3643


PETER M. POON
SUPERVISORY PATENT EXAMINER

8/12/05